

1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 MARICHELLE S. TAHIMIC  
Deputy Attorney General  
4 State Bar No. 147392  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-3154  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 3855

12 **DUSTIN MATTHEW LIKENS**  
13 **5030 Gavilan Way, #46**  
**Oceanside, CA 92057**

14 **Pharmacy Technician License No. TCH**  
15 **83670**

**A C C U S A T I O N**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about June 2, 2008, the Board of Pharmacy issued Pharmacy Technician  
22 License Number TCH 83670 to Dustin Matthew Likens (Respondent). The Pharmacy Technician  
23 License was in full force and effect at all times relevant to the charges brought herein and will  
24 expire on May 31, 2012, unless renewed.

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4. Section 4300 of the Code states:

5. Section 118, subdivision (b), of the Code provides that the suspension, expiration, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with any action during the period within which the license may be renewed, restored, reissued or replaced.

6. Section 4022 of the Code states:

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

## Accusation

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1 **DRUGS**

2 10. Marijuana is a Schedule I controlled substance as designated by Health and Safety  
3 Code section 11054, subdivision (d)(13), and is a dangerous drug pursuant to Business &  
4 Professions Code section 4022.

5 11. Methylenedioxymethamphetamine, or Ecstasy, is a Schedule I controlled substance as  
6 designated by Health and Safety Code section 11054 and is a dangerous drug pursuant to  
7 Business & Professions Code section 4022.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct-Possession of Controlled Substance)**

10 12. Respondent is subject to disciplinary action under Code sections 4301, subdivisions  
11 (j) and (o), in conjunction with section 4060, for unprofessional conduct in that Respondent  
12 unlawfully possessed controlled substances, to wit, marijuana and Ecstasy on or about August 15,  
13 2009 and/or August 16, 2009. The circumstances are as follows:

14 13. In or about April 2009, K.F., the Pharmacy Manager of Wal-Mart store 10-5075,  
15 noted there were missing prescription bottles of Norco, or hydrocodone, a controlled substance.  
16 An investigation was initiated that prompted an immediate and unscheduled drug screening of all  
17 of the store's employees on Monday, August 17, 2009.

18 14. Respondent was employed at the store as a Pharmacy Technician and was working at  
19 the store on August 17, 2009. When Respondent was informed of the investigation and the drug  
20 screening, Respondent advised K.F. that he did not want to submit to drug screening because he  
21 had "smoked pot" over the weekend and that he chose to resign instead.

22 15. Respondent also admitted to D.M., the Health and Wellness Director of the store, that  
23 Respondent had taken Ecstasy and smoked marijuana over the weekend and that he refused to  
24 submit to the drug test. Respondent was terminated from his employment on August 17, 2009.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct - Unlawful Self-Administration of Controlled Substance)**

27 16. Respondent is subject to disciplinary action under Code section 4301, subdivision (h),  
28 for unprofessional conduct in that Respondent unlawfully self-administered a controlled

1 substance, to wit, marijuana and Ecstasy to himself on or about August 15, 2009 and/or August  
2 16, 2009, as more fully set forth in paragraphs 13-15 above, and incorporated herein as though set  
3 forth in full.

4 **PRAYER**

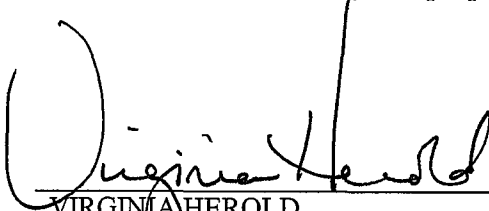
5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
6 and that following the hearing, the Board of Pharmacy issue a decision:

7 1. Revoking or suspending Pharmacy Technician Number TCH 83670, issued to Dustin  
8 Matthew Likens;

9 2. Ordering Dustin Matthew Likens to pay the Board of Pharmacy the reasonable costs  
10 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
11 section 125.3; and,

12 3. Taking such other and further action as deemed necessary and proper.

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14  
15 DATED: 2/23/11

  
16 VIRGINIA HEROLD  
17 Executive Officer  
18 Board of Pharmacy  
19 Department of Consumer Affairs  
20 State of California  
21 Complainant

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